

SENATOR CULLAN: I removed the two judges and added two lay persons who could be, if the Executive Board so desired, retired judges or perhaps a retired attorney general, or whomever the Executive Board would desire.

SENATOR GEORGE: Thank you. I think that is a good amendment. I support Senator Cullan's amendment.

PRESIDENT: Senator Fowler.

SENATOR FOWLER: I would oppose, I think, both Senator Bereuter's and Senator Cullan's amendment. I think the way Senator Bereuter laid the Commission out in the beginning is a good selection. We're talking about a group that is supposed to review this for technical purposes. It's not supposed to be coming up with any sort of substantive law, or anything like that. So I think all we need really are people that work in the area, make sure that the language is clear to them, and that they're not involved in trying to change the law. There already was a Commission that worked over this Code. I don't think we want to create another blue ribbon committee. I don't think there is any problem, initially, in having any judges serve on it because it is simply a technical question. The other thing is I think if we limit it just to retired members of the judiciary, or retired attorney generals, or something like that, we're going to narrow it down even further the people that are available and willing to serve. It may be difficult even to fill this. I don't know how many retired attorney generals there are living in the state right now. I don't think there are that many. I think we ought to leave it with the original language and defeat Senator Bereuter's amendment and Senator Cullan's amendment.

PRESIDENT: Senator Simon. Senator Newell. Oh, Senator Chambers. Well Senator Chambers had asked.... Senator Chambers, do you have something?

SENATOR CHAMBERS: Yes. Senator Simon, the reason this is being done is I had asked him to try to delay because I wanted to get a letter from Judge Boswell that I had obtained on the subject. I'm going to read you, verbatim, his letter. I just want you to listen because you'll see where I don't think he wanted to get involved in the discussion because we wind up with no conclusion. This is dated April 20, 1977. "Your letter of April 14, 1977, concerning LB 38 arrived today. Since time is of the essence I am sending this reply today. It would be inappropriate for me to express an individual opinion on the questions you have raised. Since judges are prohibited from giving legal advice, questions of that nature should be directed to the Attorney General. I call your attention to Cannon 4 of the Canon's of Judicial Ethics, a copy of which is enclosed with this letter. According to the commentary judges are encouraged to contribute to the improvement of the law, including the revision of substantive law. This, of course, is subject to the proviso they do not cast doubt on their capacity to decide issues impartially. So far as I am aware there are no authoritative precedents that answer the specific questions you raised. I believe these are matters about which there is a considerable difference of opinion". I think what we're doing here today indicates that there is a difference of opinion. But doubt would be cast upon an active judges ability to rule impartially on a law which he helped to write. The Canon that the Judge